



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Christine Setzer
Senate Majority Project
607 14th Street, N.W.
Suite 800
Washington, D.C. 20005

APR - 6 2009

RE: MUR 5799
Senator John McCain

Dear Ms. Setzer:

This is in reference to the complaint, dated August 17, 2006, that you filed with the Federal Election Commission concerning Senator John McCain. The Commission has considered the allegations contained in your complaint but was equally divided on whether to find probable cause to believe that Senator McCain violated 2 U.S.C. § 441i(e), a provision of the Federal Election Campaign Act of 1971, as amended, and 11 C.F.R. § 300.62. Instead, the Commission voted to dismiss the matter on the basis of prosecutorial discretion as outlined in *Heckler v. Chaney*, 470 U.S. 821 (1985). Accordingly, on March 18, 2009, the Commission closed the file in this matter. A Statement of Reasons providing a basis for the Commission's decision will follow.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003).

The Federal Election Campaign Act allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8). If you have any questions, please contact Jin Lee, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

Julie McConnell
Assistant General Counsel

29044240587